

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 92-27 As Amended

Introduced by Council Member Barker

Legislative Day No. 92-7 Date March 3, 1992

AN ACT to repeal and reenact, with amendments, Chapter 58, Adult Entertainment, of the Harford County Code, as amended; to require that certain sexually oriented businesses be licensed; to establish certain qualifications for an applicant for a license; to require an applicant to provide certain information; to allow renewal of a license under certain circumstances; to establish certain duties, responsibilities, and operating requirements for a licensee; to assign certain duties, responsibilities, and powers to certain county departments and officials; to establish certain deadlines with respect to license applications and renewals; to allow denial, suspension, and revocation of licenses under certain circumstances; to allow appeals of a denial, suspension, or revocation; to establish certain requirements concerning the location of certain sexually oriented businesses; to authorize a suit for injunction in certain situations; to prohibit obscene public

By the Council, March 3, 1992

Introduced, read first time, ordered posted and public hearing scheduled

on: April 7, 1992

at: 6:00 PM

By Order: Doris Paulsen, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on April 7, 1992, and concluded on, April 7, 1992

Doris Paulsen, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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performances; to establish penalties for violations of this Act; to make the provisions of this Act severable; to require that certain existing sexually oriented businesses apply under this Act for a license within a certain period; and generally relating to sexually oriented businesses.

By the Council, March 3, 1992

Introduced, read first time, ordered posted and public hearing scheduled

on: _____

at: _____

By Order: _____, Secretary

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on _____, and concluded on, _____

_____, Secretary

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

1 **WHEREAS,** There are in Harford County certain sexually oriented
2 businesses that require special supervision from the public safety
3 agencies of the county in order to protect the health, safety, and
4 welfare of the customers of the businesses and the citizens of the
5 county; and

6 **WHEREAS,** The County Council finds that these sexually oriented
7 businesses are frequently used for unlawful sexual activities,
8 including prostitution and sexual liaisons of a casual nature; and,

9 **WHEREAS,** These activities can result in sexually transmitted
10 diseases that threaten the health and, in the case of the AIDS
11 virus, the lives of citizens; and

12 **WHEREAS,** A reasonable licensing scheme is a valid and
13 legitimate means of insuring that operators of sexually oriented
14 businesses do not knowingly allow their establishments to be used
15 as places of illegal sexual activity or solicitation; and

16 **WHEREAS,** There is convincing documented evidence that sexually
17 oriented businesses, because of their very nature, have a
18 deleterious effect on nearby businesses and surrounding residential
19 areas, causing increased crime and lowering property values; and

20 **WHEREAS,** There is also evidence that sexually oriented
21 businesses located in close proximity to each other contribute to
22 neighborhood blight and lessen the quality of life in the area;
23 and

24 **WHEREAS,** The County Council desires to minimize and control
25 these adverse effects and thereby protect the health, safety, and
26 welfare of county citizens; and

1 **WHEREAS,** The County Council also desires to protect county
2 citizens from increased crime, to preserve the quality of life in
3 the County, and to preserve the property values and character of
4 neighborhoods; and

5 **WHEREAS,** It is not the intent of this Act to suppress any
6 speech protected under the First Amendment to the United States
7 Constitution, but to enact a content-neutral law that addresses
8 the adverse secondary effects of sexually oriented businesses; and

9 **WHEREAS,** It is the intent of the County Council through this
10 act to protect the health, safety, and welfare of the citizens of
11 Harford County.

12 **NOW, THEREFORE,**

13 Section 1. Be It Enacted By The County Council of Harford
14 County, Maryland, That Chapter 58, Adult Entertainment, of the
15 Harford County Code, as amended, be, and it is hereby, repealed and
16 reenacted with amendments, to read as follows:

17 Chapter 58. Adult Entertainment.

18 ARTICLE I. GENERAL PROVISIONS.

19 **Section 58-1. Definitions.**

20 A. For the purposes of this chapter, the following terms
21 have the meanings [indicated:] INDICATED.

22 B. ADULT BOOKSTORE - A COMMERCIAL ESTABLISHMENT THAT AS
23 ITS PRINCIPAL BUSINESS PURPOSE SELLS OR RENTS:

24 (1) BOOKS, MAGAZINES, PERIODICALS, OTHER PRINTED MATTER,
25 PHOTOGRAPHS, FILMS, MOTION PICTURES, VIDEO CASSETTES, VIDEO
26 REPRODUCTIONS, SLIDES, OR OTHER VISUAL REPRESENTATIONS THAT

1 DESCRIBE OR DEPICT A SEXUAL ACT OR DEPICT HUMAN GENITALIA IN A
2 STATE OF SEXUAL AROUSAL; OR

3 (2) INSTRUMENTS, DEVICES, OR PARAPHERNALIA DESIGNED FOR
4 USE IN CONNECTION WITH SEXUAL ACTS.

5 C. ADULT THEATER - A ROOM OR AN AREA:

6 (1) LOCATED IN AN ADULT BOOKSTORE;

7 (2) CAPABLE OF ACCOMMODATING 6 OR MORE INDIVIDUALS; AND

8 (3) IN WHICH ARE SHOWN FILMS, MOTION PICTURES, VIDEO
9 CASSETTES, OR OTHER MOVING PICTURES THAT DEPICT A SEXUAL ACT OR
10 HUMAN GENITALIA IN A STATE OF SEXUAL AROUSAL.

11 D. APPLICANT - A PERSON WHO APPLIES UNDER THIS CHAPTER FOR
12 A LICENSE TO OPERATE AN ADULT BOOKSTORE.

13 E. BOOKSTORE - AN ADULT BOOKSTORE.

14 F. CORPORATION - A CORPORATION ORGANIZED UNDER THE LAWS OF
15 THE UNITED STATES, MARYLAND, ANOTHER STATE OF THE UNITED STATES,
16 OR A TERRITORY, POSSESSION, OR DISTRICT OF THE UNITED STATES.

17 G. DEPARTMENT - THE DEPARTMENT OF INSPECTIONS, LICENSES AND
18 PERMITS.

19 H. LICENSE - A LICENSE ISSUED UNDER THIS CHAPTER TO OPERATE
20 AN ADULT BOOKSTORE.

21 I. LICENSEE - A PERSON LICENSED UNDER THIS CHAPTER TO
22 OPERATE AN ADULT BOOKSTORE.

23 J. Obscene performance, exhibition, drama, play, show,
24 dancing exhibition, tableau or entertainment - One which the
25 average person, applying contemporary community standards, would
26 find, taken as whole, appeals to the prurient interest and which,

1 taken as a whole, lacks serious literary, artistic, [political]
2 POLITICAL, or scientific value and where, in a patently offensive
3 way, it conveys to the observer sexual conduct:

4 [A.] (1) As specifically defined in any statute of Maryland
5 proscribing obscenity or obscene [performances.] PERFORMANCES; OR

6 [B.] (2) As specifically defined as follows, whether actual
7 or simulated: [sexual or anal intercourse, masturbation, fellatio,
8 cunnilingus or the fondling of the buttocks, anus, breasts or
9 genitalia of oneself or another, or sexual stimulation by means of
10 contact with animals or inanimate objects, or urination or
11 defecation.]

12 (a) SEXUAL OR ANAL INTERCOURSE;

13 (b) MASTURBATION;

14 (c) FELLATIO;

15 (d) CUNNILINGUS;

16 (e) SADOMASOCHISTIC ABUSE;

17 (f) FONDLING OF THE BUTTOCKS, ANUS, BREASTS, OR
18 GENITALIA OF ONESELF OR ANOTHER;

19 (g) SEXUAL STIMULATION BY MEANS OF CONTACT WITH ANIMALS
20 OR INANIMATE OBJECTS;

21 (h) URINATION; OR

22 (i) DEFECATION.

23 K. SADOMASOCHISTIC ABUSE - FLAGELLATION OR TORTURE BY OR
24 UPON AN INDIVIDUAL WHO IS NUDE OR CLAD IN UNDERGARMENTS OR OTHER
25 REVEALING CLOTHING, OR THE CONDITION OF ONE WHO IS NUDE OR SO
26 CLOTHED AND IS FETTERED, BOUND, OR OTHERWISE PHYSICALLY RESTRAINED.

L. SEXUAL ACT - MEANS:

- (a) SEXUAL OR ANAL INTERCOURSE;
- (b) MASTURBATION;
- (c) FELLATIO;
- (d) CUNNILINGUS;
- (e) SADOMASOCHISTIC ABUSE;
- (f) FONDLING OF THE BUTTOCKS, ANUS, BREASTS, OR GENITALIA OF ONESELF OR ANOTHER; OR
- (g) SEXUAL STIMULATION BY MEANS OF CONTACT WITH ANOTHER, AN ANIMAL, OR AN INANIMATE OBJECT.

M. Simulated - The representation of an activity by mimicry, gesture or bodily movement in a manner that would clearly and unmistakably convey to an average adult that such activity is intended to be represented thereby.

N. SUBSTANTIALLY ENLARGE - TO INCREASE THE FLOOR AREA OF AN ADULT BOOKSTORE BY MORE THAN 25% OF THE FLOOR AREA OF THE BOOKSTORE AS IT EXISTED ON JANUARY 1, 1992.

O. VIEWING BOOTH - A PARTITIONED AREA CAPABLE OF ACCOMMODATING 5 OR FEWER INDIVIDUALS AND IN WHICH IS LOCATED A COIN-OPERATED OR SLUG-OPERATED OR ELECTRONICALLY, ELECTRICALLY, OR MECHANICALLY CONTROLLED STILL OR MOTION PICTURE MACHINE, PROJECTOR, OR OTHER IMAGE-PRODUCING DEVICE THAT DEPICTS A SEXUAL ACT OR HUMAN GENITALIA IN A STATE OF SEXUAL AROUSAL.

ARTICLE II. ADULT BOOKSTORES.

SECTION 58-2. LICENSE REQUIRED.

A. A PERSON SHALL NOT OPERATE AN ADULT BOOKSTORE WITHOUT A LICENSE FROM THE DEPARTMENT.

B. AN APPLICANT FOR A LICENSE SHALL:

(1) IF AN INDIVIDUAL, BE AT LEAST 18 YEARS OF AGE;

(2) POSSESS A VALID MARYLAND TRADER'S LICENSE;

(3) SUBMIT TO THE DEPARTMENT AN APPLICATION ON THE FORM THAT THE DEPARTMENT PROVIDES; AND

(4) SUBMIT WITH THE APPLICATION:

(a) THE APPROPRIATE COMPLETED MARYLAND STATE POLICE FORM AUTHORIZING A CRIMINAL BACKGROUND CHECK OF THE APPLICANT;

(b) THE APPROPRIATE FEES FOR THE CRIMINAL BACKGROUND CHECK;

(c) ~~A COPY OF A TAX MAP OR~~ A SITE PLAN SHOWING THAT THE LOCATION OF THE ADULT BOOKSTORE COMPLIES WITH §58-9 OF THIS ARTICLE;

(d) THE STATE RETAIL SALES TAX IDENTIFICATION NUMBER ISSUED TO THE APPLICANT;

(e) A COPY OF THE MARYLAND TRADER'S LICENSE ISSUED TO THE APPLICANT; AND

(f) ~~AN~~ A NONREFUNDABLE LICENSE AND APPLICATION FEE OF ~~\$500~~ \$200.

C. THE APPLICATION SHALL BE MADE UNDER OATH AND SHALL INCLUDE THE FOLLOWING INFORMATION:

1 (1) THE NAME, DATE OF BIRTH, HOME ADDRESS, AND TELEPHONE
2 NUMBER OF THE APPLICANT;

3 (2) THE ADDRESS AND TELEPHONE NUMBER OF THE ADULT
4 BOOKSTORE;

5 (3) A DIAGRAM OF THE ADULT BOOKSTORE'S INTERIOR DRAWN
6 AT THE SCALE REQUIRED BY THE DEPARTMENT, INCLUDING THE LOCATION OF
7 ANY MANAGER'S STATION AND THE OVERHEAD LIGHTING REQUIRED BY §58-
8 8 OF THIS ARTICLE;

9 (4) A LIST OF ~~THE~~ ALL EMPLOYEES WHO WILL WORK IN THE
10 BOOKSTORE AND THE ADDRESS AND DATE OF BIRTH OF EACH EMPLOYEE;

11 (5) IF THE APPLICANT IS A CORPORATION:

12 (a) A COPY OF THE CORPORATION'S ARTICLES OF
13 INCORPORATION;

14 (b) A COPY OF THE CORPORATION'S BYLAWS; AND

15 (c) A LIST OF THE NAME AND ADDRESS OF EACH PERSON
16 WHO OWNS 10% OR MORE OF THE CORPORATION;

17 (6) IF THE APPLICANT IS NOT A CORPORATION OR AN
18 INDIVIDUAL, THE NAME AND HOME ADDRESS OF EACH PERSON WITH AN
19 INTEREST OF 10% OR MORE IN THE APPLICANT; AND

20 (7) A STATEMENT OF WHETHER THE APPLICANT, THE
21 APPLICANT'S SPOUSE, AN EMPLOYEE WHO WILL WORK IN THE BOOKSTORE, ANY
22 INDIVIDUAL WITH WHOM THE APPLICANT RESIDES, OR ANY PERSON WHO OWNS
23 AN INTEREST ~~OR~~ OF 10% OR MORE IN THE APPLICANT HAS PLEADED GUILTY
24 OR NOLO CONTENDERE WITH RESPECT TO, RECEIVED PROBATION BEFORE
25 JUDGMENT WITH RESPECT TO, OR BEEN CONVICTED OF AN OFFENSE LISTED

1 IN §58-6A(8) OF THIS ARTICLE, AND IF SO THE LOCATION, DATE, AND
2 NATURE OF THE PLEA, PROBATION, OR CONVICTION.

3 D. AN APPLICATION SHALL BE UNDER OATH AND SIGNED BY EACH
4 APPLICANT.

5 E. IF AN APPLICANT IS NOT AN INDIVIDUAL, EACH INDIVIDUAL
6 WHO OWNS AN INTEREST OF 10% OR MORE IN THE APPLICANT IS CONSIDERED
7 AN APPLICANT AND SHALL:

8 (1) PROVIDE THE INFORMATION REQUIRED BY THIS SECTION;
9 AND

10 (2) SIGN THE APPLICATION.

11 F. REGARDLESS OF THE NUMBER OF INDIVIDUALS REQUIRED TO SIGN
12 A SINGLE LICENSE APPLICATION UNDER SUBSECTION E OF THIS SECTION,
13 ONLY 1 STATE SALES TAX IDENTIFICATION NUMBER AND 1 MARYLAND
14 TRADER'S LICENSE ARE REQUIRED FOR A LICENSE ISSUED UNDER THIS
15 ARTICLE.

16 **SECTION 58-3. INSPECTIONS; ISSUANCE OF LICENSE.**

17 A. WITHIN 7 CALENDAR DAYS AFTER RECEIVING AN APPLICATION FOR
18 A LICENSE TO OPERATE AN ADULT BOOKSTORE, THE DEPARTMENT SHALL
19 SHALL: (1) REQUEST THAT THE HEALTH DEPARTMENT INSPECT THE
20 BOOKSTORE TO ENSURE THAT IT IS IN COMPLIANCE WITH ALL APPLICABLE
21 COUNTY AND STATE HEALTH LAWS LAWS; AND

22 (2) REFER THE APPLICATION TO ANY OTHER AGENCY FROM WHICH
23 THE DEPARTMENT REQUESTS INFORMATION CONCERNING THE APPLICATION.

24 B. WITHIN 30 CALENDAR DAYS AFTER RECEIVING THE DEPARTMENT'S
25 REQUEST: REQUEST, (1) THE HEALTH DEPARTMENT SHALL INSPECT THE

1 BOOKSTORE AND NOTIFY THE DEPARTMENT OF WHETHER THE BOOKSTORE IS IN
2 COMPLIANCE WITH THE APPLICABLE HEALTH ~~LAWS.~~ LAWS; AND

3 (2) ANY OTHER AGENCY TO WHICH THE APPLICATION WAS
4 REFERRED SHALL FURNISH THE INFORMATION THE DEPARTMENT REQUESTED.

5 C. WITHIN ~~45~~ 7 CALENDAR DAYS AFTER RECEIVING AN APPLICATION
6 ~~FOR A LICENSE TO OPERATE AN ADULT BOOKSTORE~~ ALL OF THE INFORMATION
7 REQUIRED UNDER SUBSECTION B OF THIS SECTION, THE DEPARTMENT SHALL
8 NOTIFY THE APPLICANT OF WHETHER IT QUALIFIES FOR A LICENSE.

9 D. IF AN APPLICANT QUALIFIES FOR A LICENSE UNDER THIS
10 ARTICLE, THE DEPARTMENT SHALL ISSUE A LICENSE TO THE APPLICANT.

11 **SECTION 58-4. TERM AND RENEWAL.**

12 A. A LICENSE EXPIRES ON THE FIRST ANNIVERSARY OF ITS
13 EFFECTIVE DATE, UNLESS THE LICENSE IS RENEWED FOR A 1-YEAR TERM AS
14 PROVIDED IN THIS SECTION.

15 ~~B. AT LEAST 60 CALENDAR DAYS BEFORE A LICENSE EXPIRES, THE~~
16 ~~DEPARTMENT SHALL MAIL TO THE LICENSEE A RENEWAL NOTICE THAT STATES:~~

17 ~~(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES;~~

18 ~~(2) THE DATE BY WHICH THE DEPARTMENT MUST RECEIVE THE~~
19 ~~RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE~~
20 ~~THE CURRENT LICENSE EXPIRES; AND~~

21 ~~(3) THE AMOUNT OF THE RENEWAL FEE.~~

22 ~~C.~~ B. BEFORE A LICENSE EXPIRES, THE LICENSEE PERIODICALLY
23 MAY RENEW IT FOR AN ADDITIONAL 1-YEAR TERM, IF THE LICENSEE:

24 (1) OTHERWISE IS ENTITLED TO THE LICENSE;

25 (2) PAYS TO THE DEPARTMENT A RENEWAL FEE OF \$500 \$200;

26 AND

(3) SUBMITS TO THE DEPARTMENT:

(a) A RENEWAL APPLICATION ON THE FORM THAT THE DEPARTMENT PROVIDES; AND

~~(b) SATISFACTORY EVIDENCE OF THE LICENSEE'S CONTINUING COMPLIANCE WITH THIS ARTICLE.~~

(b) THE APPROPRIATE COMPLETED MARYLAND STATE POLICE FORM AUTHORIZING A CRIMINAL BACKGROUND CHECK OF THE LICENSEE; AND

(c) THE APPROPRIATE FEE FOR THE CRIMINAL BACKGROUND CHECK.

~~D. C.~~ WITHIN 45 CALENDAR DAYS AFTER RECEIVING A RENEWAL APPLICATION FROM A LICENSEE, THE DEPARTMENT SHALL NOTIFY THE LICENSEE OF WHETHER IT QUALIFIES FOR RENEWAL OF THE LICENSE.

~~E. D.~~ THE DEPARTMENT SHALL RENEW THE LICENSE OF EACH LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

SECTION 58-5. TRANSFER OF LICENSE.

A. A LICENSEE SHALL NOT TRANSFER THE LICENSE TO ANOTHER PERSON.

B. A LICENSE IS VALID ONLY FOR THE LOCATION FOR WHICH IT IS ISSUED.

SECTION 58-6. DENIALS, SUSPENSIONS, AND REVOCATIONS OF LICENSES.

A. THE DEPARTMENT SHALL MAY DENY A LICENSE TO ANY APPLICANT OR SUSPEND OR REVOKE A LICENSE IF:

(1) THE APPLICANT OR LICENSEE DOES NOT PAY A FEE REQUIRED BY THIS ARTICLE;

(2) THE PREMISES OF THE ADULT BOOKSTORE FAIL AN INSPECTION REQUIRED BY §58-3 OF THIS ARTICLE;

1 (3) THE APPLICANT, LICENSEE, OR AN EMPLOYEE OF THE
2 APPLICANT OR LICENSEE REFUSES TO ALLOW AN INSPECTION OF THE ADULT
3 BOOKSTORE BY AN EMPLOYEE OR DESIGNATED REPRESENTATIVE OF THE
4 DEPARTMENT, THE HEALTH DEPARTMENT, OR A LAW ENFORCEMENT AGENCY WITH
5 JURISDICTION IN THE COUNTY;

6 (4) THE APPLICANT OR LICENSEE FRAUDULENTLY OR
7 DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A LICENSE FOR THE
8 APPLICANT OR LICENSEE OR FOR ANOTHER;

9 (5) THE APPLICANT OR LICENSEE FRAUDULENTLY OR
10 DECEPTIVELY USES A LICENSE;

11 (6) THE APPLICANT OR LICENSEE PLEADS GUILTY OR NOLO
12 CONTENDERE WITH RESPECT TO, RECEIVES PROBATION BEFORE JUDGMENT WITH
13 RESPECT TO, OR IS CONVICTED OF A VIOLATION ~~OF THIS ARTICLE, OTHER~~
14 ~~THAN OPERATING AN ADULT BOOKSTORE WITHOUT A LICENSE, IN THE 2 YEARS~~
15 ~~PRECEDING THE DENIAL, SUSPENSION, OR REVOCATION, OF:~~

16 (a) THIS ARTICLE, OTHER THAN OPERATING AN ADULT
17 BOOKSTORE WITHOUT A LICENSE; OR

18 (b) ANY STATE LAW LISTED IN SUBSECTION A(8) OF THIS
19 SECTION.

20 (7) IN THE 2 YEARS BEFORE THE DENIAL, SUSPENSION, OR
21 REVOCATION, THE APPLICANT, THE LICENSEE, THE APPLICANT'S OR
22 LICENSEE'S SPOUSE, OR AN INDIVIDUAL WITH WHOM THE APPLICANT OR
23 LICENSEE RESIDES ~~PLEADS~~ PLEADED GUILTY OR NOLO CONTENDERE WITH
24 RESPECT TO, RECEIVES RECEIVED PROBATION BEFORE JUDGMENT WITH
25 RESPECT TO, OR ~~IS~~ WAS CONVICTED OF A VIOLATION OF:

1 (a) THIS ARTICLE, OTHER THAN OPERATING AN ADULT
2 BOOKSTORE WITHOUT A ~~LICENSE, IN THE PAST 2 YEARS,~~ LICENSE; OR

3 (b) ANY STATE LAW LISTED IN SUBSECTION A(8) OF THIS
4 SECTION; OR

5 (8) THE APPLICANT OR LICENSEE PLEADS GUILTY OR NOLO
6 CONTENDERE WITH RESPECT TO, RECEIVES PROBATION BEFORE JUDGMENT WITH
7 RESPECT TO, OR IS CONVICTED OF A VIOLATION OF ANY OF THE FOLLOWING
8 SECTIONS OF ARTICLE 27 OF THE ANNOTATED CODE OF MARYLAND:

9 (a) §1 (ABDUCTION OF INDIVIDUAL UNDER 16);

10 (b) §2 (ABDUCTION OF CHILD UNDER 12);

11 (c) §15 (BAWDY HOUSES AND HOUSES OF ILL FAME;
12 PROSTITUTION, ETC.);

13 (d) §23 (OFFERING BRIBE TO PUBLIC OFFICER, ETC.);

14 (e) §26 (EMBRACERY, ETC.);

15 (f) §27 (INTIMIDATING OR CORRUPTING JURORS, ETC.;
16 OBSTRUCTING JUSTICE);

17 (g) §35A (CHILD ABUSE);

18 (h) §335 (INCEST);

19 (i) §335A (INDECENT EXPOSURE);

20 (j) §416B (SELLING OR OFFERING TO SELL CERTAIN
21 VISUAL REPRESENTATIONS, PRINTED MATTER OR SOUND RECORDINGS TO
22 MINORS);

23 (k) §416C (EXHIBITION OF CERTAIN MOTION PICTURES
24 OR PRESENTATIONS TO MINORS);

25 (l) §416D (DISPLAYING CERTAIN VISUAL
26 REPRESENTATIONS FOR ADVERTISING PURPOSES);

1 (m) §416E (PERMITTING MINOR TO ENTER OR REMAIN ON
2 CERTAIN PREMISES;

3 (n) §418 (SENDING OR BRINGING OBSCENE MATERIAL INTO
4 STATE FOR SALE OR DISTRIBUTION; PUBLISHING, ETC., WITHIN STATE);

5 (o) §419 (SALE OR DISPLAY OF CERTAIN ITEMS TO
6 PERSONS UNDER 18);

7 (p) §419A (CHILD PORNOGRAPHY);

8 (q) §426 (PANDERING GENERALLY);

9 (r) §427 (PLACING, ETC. PERSON FOR IMMORAL
10 PURPOSES);

11 (s) §428 (RECEIVING MONEY, ETC., FOR PROCURING
12 PERSON FOR HOUSE OF PROSTITUTION, ETC.);

13 (t) §429 (PLACING, ETC., OF SPOUSE IN HOUSE OF
14 PROSTITUTION, ETC.);

15 (u) §430 (RECEIVING EARNINGS OF PROSTITUTE);

16 (v) §431 (DETAINING PERSON IN HOUSE OF PROSTITUTION
17 FOR DEBT);

18 (w) §432 (TRANSPORTING PERSON FOR PROSTITUTION);

19 (x) §462 (FIRST DEGREE RAPE);

20 (y) §463 (SECOND DEGREE RAPE);

21 (z) §464 (FIRST DEGREE SEXUAL OFFENSE);

22 (aa) §464A (SECOND DEGREE SEXUAL OFFENSE);

23 (bb) §464B (THIRD DEGREE SEXUAL OFFENSE);

24 (cc) §464C (FOURTH DEGREE SEXUAL OFFENSE);

25 (dd) §467A (TRANSFER OF RECORDED SOUND WITHOUT
26 CONSENT OF OWNER OF MASTER DEVICE);

(ee) §553 (SODOMY); OR

(ff) §554 (UNNATURAL OR PERVERTED PRACTICES).

B. IN ADDITION TO THE AUTHORITY GRANTED BY SUBSECTION A OF THIS SECTION, THE DEPARTMENT SHALL MAY SUSPEND OR REVOKE A LICENSE IF:

(1) A LICENSEE OR AN EMPLOYEE OF THE BOOKSTORE HAS KNOWINGLY ALLOWED ON THE PREMISES THE POSSESSION, USE, OR SALE OF A CONTROLLED DANGEROUS SUBSTANCE LISTED IN ARTICLE 27, §279 OF THE ANNOTATED CODE OF MARYLAND;

(2) A LICENSEE OR AN EMPLOYEE OF THE BOOKSTORE HAS KNOWINGLY ALLOWED PROSTITUTION ON THE PREMISES;

(3) A LICENSEE OR AN EMPLOYEE OF THE BOOKSTORE HAS KNOWINGLY ALLOWED A SEXUAL ACT ON THE PREMISES;

(4) A LICENSEE OR AN EMPLOYEE OF THE LICENSEE HAS KNOWINGLY OPERATED THE ADULT BOOKSTORE WHEN THE LICENSE WAS SUSPENDED; OR

(5) IN THE PRECEDING YEAR 2 OR MORE EMPLOYEES OF THE BOOKSTORE HAVE PLEADED GUILTY OR NOLO CONTENDERE WITH RESPECT TO, RECEIVED PROBATION BEFORE JUDGMENT WITH RESPECT TO, OR BEEN CONVICTED OF A VIOLATION OF ANY STATE LAW LISTED IN SUBSECTION A(8) OF THIS SECTION.

SECTION 58-7. OPERATING REQUIREMENTS.

A. THE OPERATOR OF AN ADULT BOOKSTORE SHALL:

(1) REQUIRE PROOF OF AN INDIVIDUAL'S AGE BEFORE ALLOWING THE INDIVIDUAL TO ENTER THE BOOKSTORE;

1 (2) ARRANGE THE BOOKSTORE'S INTERIOR SO THAT EMPLOYEES
2 CAN OBSERVE ALL AREAS OF THE BOOKSTORE THAT ARE OPEN TO CUSTOMERS
3 OR THE PUBLIC;

4 (3) ARRANGE THE BOOKSTORE'S MERCHANDISE SO THAT:

5 (a) NO MERCHANDISE DEPICTING A SEXUAL ACT OR HUMAN
6 GENITALIA IN A STATE OF SEXUAL AROUSAL IS VISIBLE FROM OUTSIDE OF
7 THE BOOKSTORE; AND

8 (b) NO MERCHANDISE DESIGNED FOR USE IN CONNECTION
9 WITH A SEXUAL ACT IS VISIBLE FROM OUTSIDE OF THE BOOKSTORE;

10 (4) ENSURE THAT THE BOOKSTORE'S PARKING LOT IS LIGHTED
11 EQUIPPED WITH LIGHTING OF SUFFICIENT INTENSITY TO LIGHT THE LOT AT
12 AN ILLUMINATION OF AT LEAST 2 FOOTCANDLES AND IS POSTED WITH SIGNS
13 THAT PROHIBIT LOITERING;

14 (5) REGULARLY CHECK THE PARKING LOT TO ~~ENSURE THAT TRY~~
15 TO KEEP CUSTOMERS AND MEMBERS OF THE PUBLIC ~~DO NOT LOITER OR COMMIT~~
16 FROM LOITERING OR COMMITTING SEXUAL ACTS THERE; AND

17 (6) PERMIT INSPECTION OF THE BOOKSTORE AND ITS PREMISES
18 BY AN EMPLOYEE OR DESIGNATED REPRESENTATIVE OF THE DEPARTMENT, THE
19 HEALTH DEPARTMENT, AND ANY LAW ENFORCEMENT AGENCY WITH JURISDICTION
20 IN THE COUNTY AT ANY TIME THE BOOKSTORE IS OCCUPIED OR OPEN FOR
21 ~~BUSINESS.~~ BUSINESS; AND

22 (7) WITHIN 30 CALENDAR DAYS AFTER EACH NEW EMPLOYEE
23 BEGINS WORKING IN THE BOOKSTORE, SEND WRITTEN NOTIFICATION OF THE
24 EMPLOYEE'S NAME, ADDRESS, AND DATE OF BIRTH TO THE DEPARTMENT.

25 B. THE OPERATOR OF AN ADULT BOOKSTORE SHALL NOT:

1 (1) ALLOW AN INDIVIDUAL UNDER THE AGE OF 18 TO ENTER THE
2 BOOKSTORE;

3 (2) KNOWINGLY ALLOW AN INDIVIDUAL TO COMMIT A SEXUAL ACT
4 IN THE BOOKSTORE OR THE BOOKSTORE'S PARKING LOT; OR

5 (3) EMPLOY AN INDIVIDUAL WHO HAS IN THE PRECEDING 2
6 YEARS PLEADED GUILTY OR NOLO CONTENDERE WITH RESPECT TO, RECEIVED
7 PROBATION BEFORE JUDGMENT WITH RESPECT TO, OR BEEN CONVICTED OF A
8 VIOLATION OF:

9 (a) THIS ARTICLE, OTHER THAN OPERATING AN ADULT
10 BOOKSTORE WITHOUT A LICENSE; OR

11 (b) ANY STATE LAW LISTED IN §58-6 A(8) OF THIS
12 ARTICLE.

13 **SECTION 58-8. ADDITIONAL REQUIREMENTS FOR CERTAIN BOOKSTORES.**

14 A. A PERSON WHO OWNS OR OPERATES AN ADULT BOOKSTORE THAT
15 INCLUDES A VIEWING BOOTH OR AN ADULT THEATER:

16 (1) SHALL MAINTAIN AT LEAST 1 MANAGER'S STATION NOT
17 ~~EXCEEDING 32 SQUARE FEET OF FLOOR SPACE~~ IN THE BOOKSTORE;

18 (2) SHALL NOT ALTER THE LOCATION OR CONFIGURATION OF A
19 MANAGER'S STATION WITHOUT THE APPROVAL OF THE DEPARTMENT;

20 (3) SHALL ENSURE THAT AT LEAST ONE EMPLOYEE IS ON DUTY
21 AT EACH MANAGER'S STATION WHEN A CUSTOMER IS IN THE BOOKSTORE;

22 (4) SHALL ARRANGE THE BOOKSTORE'S INTERIOR SO THAT EACH
23 AREA OF THE BOOKSTORE OPEN TO CUSTOMERS, EXCEPT THE RESTROOMS, IS
24 VISIBLE FROM AT LEAST ONE MANAGER'S STATION;

25 (5) SHALL ENSURE THAT THE BOOKSTORE IS EQUIPPED WITH
26 OVERHEAD LIGHTING OF SUFFICIENT INTENSITY TO LIGHT EACH AREA OF THE

BOOKSTORE IN WHICH CUSTOMERS ARE PERMITTED AT AN ILLUMINATION OF
AT LEAST ~~1 FOOTCANDLE~~ 5 FOOTCANDLES, MEASURED AT FLOOR LEVEL;

(6) SHALL ENSURE THAT THE LIGHTING IS ON WHEN A CUSTOMER
IS IN THE BOOKSTORE;

(7) SHALL NOT EQUIP A VIEWING BOOTH WITH A CURTAIN,
DOOR, OR ANY OTHER DEVICE THAT ALLOWS THE BOOTH'S INTERIOR TO BE
SCREENED FROM THE VIEW OF EMPLOYEES; AND

(8) SHALL ENSURE THAT EACH VIEWING BOOTH IS SEPARATED
FROM OTHERS BY A SOLID WALL OR OTHER SOLID PARTITION; AND
PARTITION.

~~(9) SHALL:~~

~~(a) ISSUE A TICKET TO EACH CUSTOMER WHO USES A
VIEWING BOOTH OR ADULT THEATER;~~

~~(b) RETAIN A PORTION OF THE TICKET FOR THE
BOOKSTORE'S RECORDS; AND~~

~~(c) MAINTAIN THE PORTION OF THE TICKET RETAINED FOR
AT LEAST 2 YEARS.~~

SECTION 58-9. LOCATION OF ADULT BOOKSTORES.

A. A PERSON SHALL NOT OPERATE AN ADULT BOOKSTORE WITHIN
1,000 FEET OF:

- (1) A HOUSE OF WORSHIP;
- (2) A PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL;
- (3) A PUBLIC PARK;
- (4) A CHILD CARE HOME, CHILD CARE INSTITUTION, OR FAMILY
DAY CARE HOME LICENSED OR REGISTERED UNDER MARYLAND LAW; OR
- (5) A LOT DEVOTED TO RESIDENTIAL USE.

1 B. A PERSON SHALL NOT OPERATE OR SUBSTANTIALLY ENLARGE AN
2 ADULT BOOKSTORE LOCATED WITHIN 1,000 FEET OF ANOTHER ADULT
3 BOOKSTORE.

4 C. FOR THE PURPOSES OF THIS SECTION DISTANCE SHALL BE
5 MEASURED IN A STRAIGHT LINE, WITHOUT REGARD TO INTERVENING OBJECTS,
6 FROM THE CLOSEST PART OF THE BUILDING IN WHICH THE ADULT BOOKSTORE
7 IS HOUSED TO THE NEAREST PROPERTY LINE OF THE HOUSE OF WORSHIP,
8 SCHOOL, PARK, CHILD CARE HOME, CHILD CARE INSTITUTION, FAMILY DAY
9 CARE HOME, RESIDENTIAL LOT, OR OTHER ADULT BOOKSTORE.

10 D. IF THE OPERATOR OF AN ADULT BOOKSTORE HAS A LICENSE FROM
11 THE DEPARTMENT TO OPERATE THE BOOKSTORE, THE OPERATOR IS NOT PLACED
12 IN VIOLATION OF THIS SECTION BY THE SUBSEQUENT LOCATION OF A HOUSE
13 OF WORSHIP, SCHOOL, PARK, CHILD CARE HOME, CHILD CARE INSTITUTION,
14 FAMILY DAY CARE HOME, OR RESIDENTIAL LOT WITHIN 1,000 FEET OF THE
15 BOOKSTORE.

16 E. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO AN
17 ADULT BOOKSTORE THAT:

18 (1) WAS IN OPERATION ON JANUARY 31, 1992; AND

19 (2) CONTINUES IN OPERATION AT THE SAME LOCATION AFTER
20 JANUARY 31, 1992, REGARDLESS OF WHETHER OWNERSHIP OF THE BOOKSTORE
21 IS TRANSFERRED AFTER THAT DATE.

22 **SECTION 58-10. APPEAL OF LICENSE DENIAL, SUSPENSION, OR REVOCATION.**

23 IF THE DEPARTMENT DENIES AN APPLICATION FOR A LICENSE OR
24 SUSPENDS OR REVOKES A LICENSE, THE APPLICANT OR LICENSEE MAY APPEAL
25 THE DEPARTMENT'S DECISION TO THE CIRCUIT COURT FOR HARFORD COUNTY.

1 **SECTION 58-11. INJUNCTION.**

2 A. THE COUNTY ATTORNEY MAY SUE TO ENJOIN A PERSON FROM:

3 (1) OPERATING AN ADULT BOOKSTORE WITHOUT A LICENSE;

4 (2) OPERATING AN ADULT BOOKSTORE WITH A SUSPENDED
5 LICENSE;

6 (3) OPERATING AN ADULT BOOKSTORE AFTER A LICENSE HAS
7 BEEN REVOKED; OR

8 (4) COMMITTING ANY OTHER VIOLATION OF THIS ARTICLE.

9 B. BEFORE THE COUNTY ATTORNEY FILES SUIT UNDER THIS SECTION,
10 THE DEPARTMENT SHALL NOTIFY THE PERSON WHO OPERATES THE ADULT
11 BOOKSTORE THAT THE PERSON IS IN VIOLATION OF THIS ARTICLE.

12 C. THE NOTICE REQUIRED BY THIS SECTION SHALL BE IN WRITING
13 AND MAY BE SENT BY CERTIFIED MAIL OR DELIVERED IN PERSON.

14 Section [58-2. Violations and Penalties.] **58-12. OBSCENE PUBLIC**
15 **PERFORMANCE.**

16 [A.] Any person who as actor, dancer, owner, manager,
17 producer, director or agent or in any other capacity prepares,
18 gives, directs, presents, performs or participates in any obscene
19 performance, exhibition, drama, play, show, dancing exhibition,
20 tableau or entertainment in which live persons perform or
21 participate in an obscene manner in the presence of any other
22 person or persons who have paid a consideration of any type
23 whatsoever to observe the exhibition or performance and every
24 owner, lessee or manager of any theater, garden, building, room,
25 place or structure who knowingly permits the same to be used for
26 the purpose of any such exhibition as enumerated in this section

1 or who assents to its use for any such purpose shall be guilty of
2 a misdemeanor and, upon conviction thereof, shall be fined or
3 imprisoned as provided hereafter.

4 [B. Any person violating any provision of this chapter or
5 failing to comply therewith is guilty of a misdemeanor, punishable,
6 upon conviction, by a fine not to exceed one thousand dollars
7 (\$1,000.) or by imprisonment not to exceed six (6) months, or by
8 both such fine and imprisonment. Each day that a violation
9 continues is deemed to be a separate offense.]

10 **SECTION 58-13. PENALTIES FOR VIOLATION.**

11 A PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE IS GUILTY
12 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
13 EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.
14 EACH DAY A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

15 Section 2. And Be It Further Enacted, That the operator of an
16 adult bookstore open for business on or before the effective date
17 of this Act shall apply for an adult bookstore license under this
18 Act within 45 calendar days after the effective date of this Act.

19 Section 3. And Be It Further Enacted, That if any provision of
20 this Act or the application thereof to any person or circumstance
21 is held invalid for any reason in a court of competent
22 jurisdiction, the invalidity does not affect other provisions or
23 any application of this Act which can be given effect without the
24 invalid provision or application, and for this purpose the
25 provisions of this Act are declared severable.

Section 4. And Be It Further Enacted, That this Act shall take
effect 60 calendar days from the date it becomes law.

EFFECTIVE: July 10, 1992

BY THE COUNCIL

BILL NO. 92-27 As Amended

Read the third time.

Passed: LSD 92-13 (May 5, 1992)

Failed of Passage: _____

By Order

Doris Poulsen, Secretary

Sealed with the County Seal and presented to the County Executive
for her approval this 6th day of May,
1992 at 3:00 o'clock P.M.

Doris Poulsen, Secretary

BY THE EXECUTIVE

Eileen M. Behrman
COUNTY EXECUTIVE

APPROVED:

Date May 11, 1992

BY THE COUNCIL

This Bill, (No. 92-27 As Amended), having been approved by
the County Executive and returned to the Council, becomes law on
May 11, 1992.

Doris Poulsen, Secretary

EFFECTIVE DATE: July 10, 1992